

U.S. DEPARTMENT OF ENERGY
NEVADA OPERATIONS OFFICE

ORDER

NV O 450.X1

DMC

Approved: 3-18-99
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Expires: 3-18-03

**PROTECTION OF CULTURAL
RESOURCES AND ENDANGERED
SPECIES**



INITIATED BY:
Environment, Safety, and Health Division

**PROTECTION OF CULTURAL RESOURCES
AND ENDANGERED SPECIES**

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1. OBJECTIVES.

- a. The National Historic Preservation Act requires Federal agencies take into account the effects of their undertakings on historic properties and consult with the Nevada State Historic Preservation Office (NSHPO) regarding those effects. The Endangered Species Act (ESA) requires Federal agencies, in consultation with the United States Fish and Wildlife Service (Service), to ensure that their actions do not jeopardize the continued existence of threatened or endangered species or adversely affect critical habitat. The Service encourages Federal agencies to monitor the status of candidate species to help reduce threats to the species or the ecosystems on which they depend. The terms and conditions of the Programmatic Biological Opinion for desert tortoise protection at the Nevada Test Site must be implemented.
- b. This Order is established to ensure that projects and programs are conducted in a manner to provide optimum protection for cultural resources, federally threatened, endangered, candidate species, state protected species, and other important biological resources. The Order assigns responsibilities and authorities to DOE Nevada Operations Office (DOE/NV) organizational elements.

2. CANCELLATION. NV PI 96-005, PROTECTION OF ENDANGERED SPECIES AND CULTURAL RESOURCES, dated 10-22-96.

3. APPLICABILITY. The provisions of this Order apply to all DOE/NV organizational elements.

4. REQUIREMENTS. Project/program managers submit biological/cultural resource survey requests to the Environment, Safety, and Health Division (ESHD) for ground-disturbing activities that may affect target species, including desert tortoises, or activities that may affect cultural resources. ESHD can assist in determining when a survey is needed. The survey request should include the following information:

- a. Brief description of proposed activity.
- b. General vicinity and detailed project location maps.
- c. How the project boundaries are flagged or staked.

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- d. Name and phone number of project point-of-contact.
- e. Funding source.
- f. Survey completion date. The ESA and Cultural Resource Management (CRM) support contractors usually need 2 weeks to schedule and complete surveys.
- g. ESHD tasks ESA and/or CRM support contractor(s) within 2 days of receiving request to conduct surveys and prepare reports.
- h. ESA and/or CRM support contractor(s) conduct surveys, notifies ESHD of results, and prepare reports. Biological survey reports are due to ESHD within 10 working days after survey completion. Cultural resource survey reports are due to ESHD within 45 days after survey completion. Detailed historical evaluations including Historical American Building Survey documentation and/or archeological site excavations needed to mitigate adverse effects may require 1-4 months to complete.
- i. Upon completion of survey, ESHD notifies project manager of survey results and any potential problems.
- j. ESHD receives final reports and conducts consultation with NSHPO and Service. NSHPO has 30 days to conclude consultation; no set time limits for Service. ESHD provides copies of final reports and consultation correspondence to project manager.

5. RESPONSIBILITIES.

- a. DOE/NV Manager. Responsible for identifying and protecting cultural resources, federally threatened, endangered, candidate species, state protected species, and other important biological resources.
- b. Assistant Manager for Technical Services. Ensures compliance with all applicable Acts, Biological Opinions, and Federal and State regulations for the protection of cultural resources, federally threatened, endangered, candidate species, state protected species, and other important biological resources.
- c. Assistant Manager for National Security. Conducts projects for the optimum protection of cultural resources, federally threatened, endangered, candidate species, state protected species, and other important biological resources.

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- d. Assistant Manager for Environmental Management. Conducts projects for the optimum protection of cultural resources and federally threatened, endangered, candidate species, state protected species, and other important biological resources.
- e. Director, ESHD. Provides oversight, guidance, and assistance for the identification and protection of cultural resources, federally threatened, endangered, candidate species, state protected species, and other important biological resources. Conducts consultation with the Service and NSHPO. Maintains records of biological and cultural resource survey results, biological assessments, biological opinions, archeological data recovery reports, historical evaluations, and consultation correspondence.

6. REFERENCES.

- a. Endangered Species Act of 1973, as amended.
- b. National Historic Preservation Act of 1966, as amended.
- c. Programmatic Biological Opinion For the Protection of Desert Tortoises at the Nevada Test Site, August 22, 1996.
- d. Draft DOE Environmental Records Schedule, 1996.

7. DEFINITIONS.

- a. Biological Opinion. Document stating the opinion of the Service on whether or not a federal action is likely to jeopardize the continued existence of a listed species or result in the adverse modification of critical habitat.
- b. Candidate Species. Those species for which the Service has on file sufficient information to support issuance of a proposed rule to list under the ESA.
- c. Endangered Species. Any species which is in danger of extinction throughout all or a significant portion of its range.
- d. State Protected Species. Species protected by the Nevada Department of Wildlife and the Nevada Division of Forestry.

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- e. Threatened Species. Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.



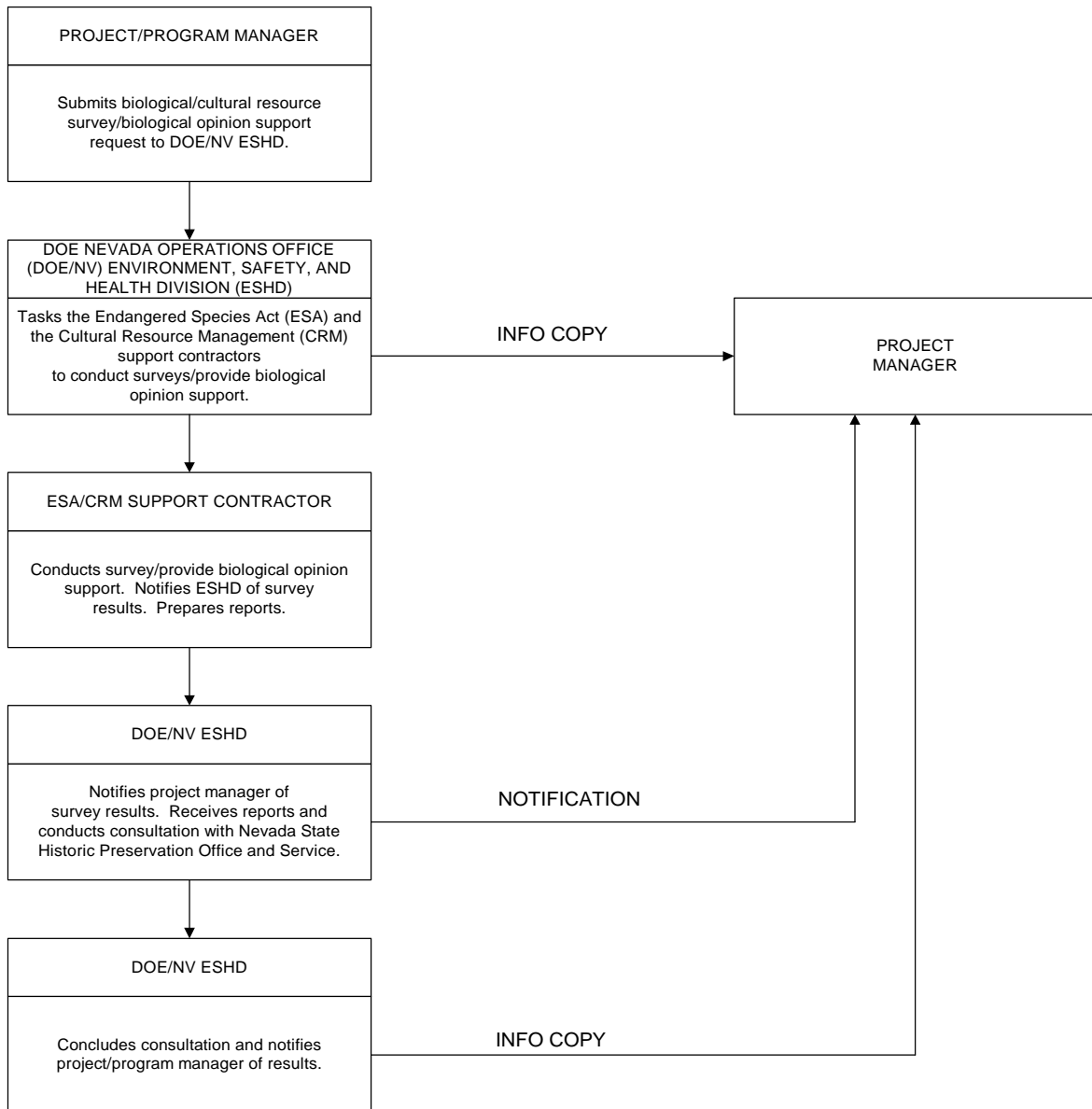
G. W. Johnson
Manager

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Attachment 1
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FLOWCHART FOR PROTECTION OF CULTURAL RESOURCES AND ENDANGERED SPECIES



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**Attachment 2
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**BIOLOGICAL/CULTURAL RESOURCE SURVEY REQUEST
DOE NEVADA OPERATIONS OFFICE (DOE/NV)
ENVIRONMENT, SAFETY, AND HEALTH DIVISION (ESHD)**

| | |
|--|---|
| <p>Date:</p> <p>To:</p> <p>From: Director, ESHD DOE/NV, Las Vegas, NV</p> | <p><i>For ESHD Use Only</i></p> <p>Project No.:</p> |
| <p>PROJECT NAME/DESCRIPTION <i>(Include map, location, flagging information, type of survey)</i></p> | |
| | |
| <p>Point of Contact, Including Phone No:</p> | |
| <p>Funding Source:</p> | |
| <p style="text-align: center;">If you have any questions or need additional information, please contact Robert C. Furlow, of my staff, at 295-0845. Thank you for your assistance.</p> <div style="text-align: right; margin-top: 20px;"><p>_____ Kenneth A. Hoar, Director Environment, Safety, and Health Division</p></div> | |

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**Attachment 3
Page 1**

TORTOISE PROTECTION MEASURES

Project Name: _____

NTS Area: _____

General Location: _____

Terms and Conditions of Biological Opinion which must be implemented (see back for further details):

- | | | | |
|--|--------|---------|---------------------------------------|
| 1. All workers received Tortoise Protection Brochure. | Yes | No | If "No" Explain: |
| • Number of workers on project: _____ | _____ | _____ | _____ |
| 2. Clearance surveys completed not more than 1 working day before construction activities. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 3. Biologist or environmental monitor present during all construction activities. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 4. Flagged tortoise burrows avoided by at least 30 feet. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 5. Workers observed 15 mph speed limit within project area. | Yes | No | If "No" Explain |
| | _____ | _____ | _____ |
| 6. Unauthorized off-road driving occurred. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 7. Edible trash was disposed in covered, raven-proof trash receptacles at end of each day. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 8. Trash disposed in sanitary landfill at end of each week. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 9. Land disturbance restricted to construction zone. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 10. All equipment and materials stored within construction zone or previously disturbed area. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 11. Open trenches or other excavations checked at the beginning of day, at the end of day, and prior to backfilling. | Yes | No | If "No" Explain: |
| | _____ | _____ | _____ |
| 12. Unattended trenches with slopes greater than 1-foot rise to 3-foot length were: | Filled | Covered | Fenced Ramp Constructed |
| | _____ | _____ | _____ |
| 13. Trenches with earthen ramps check once every 2 weeks during March 1 through October 31. | Yes | No | If "No" Explain: Not Applicable: |
| | _____ | _____ | _____ |

Comments: _____

The above terms and conditions of the Nevada Test Site (NTS) Biological Opinion were met to the best of my knowledge.

Environmental Monitor (Print Name)

Environmental Monitor (Signature)

Date

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**TERMS AND CONDITIONS OF THE NTS BIOLOGICAL OPINION
FOR DESERT TORTOISE PROTECTION**

1. All personnel who work at the NTS must receive the DOE Nevada Operations Office's (DOE/NV) Desert Tortoise Worker Education brochure, which provides information about the occurrence of the desert tortoise at the NTS, the threatened status of the species, the definition of "take," the potential for impacts to the tortoise, and the potential penalties (up to \$25,000 in fines and 6 months in prison) for intentionally taking a desert tortoise.
2. For projects in tortoise habitat where tortoise abundance has been classified as low or unknown, tortoise clearance surveys shall be completed not more than 1 working day before any surface disturbing activity. Qualified biologists shall thoroughly search the project area for tortoises using techniques providing 100 percent coverage of all areas. Call 295-0845 or 295-0392 for assistance in determining if a survey is needed.
3. A tortoise biologist or environmental monitor (in place of a biologist) will be on-site during all phases of project construction to ensure construction activities are in compliance with the Biological Opinion, and that tortoises are not inadvertently harmed. The environmental monitor may be the project foreman or supervisor. **An environmental monitor is not authorized to handle tortoises.**
4. Desert tortoise burrows in and adjacent to the project site which can be avoided will be avoided by at least 30 feet. If a burrow cannot be avoided, it will be inspected and collapsed by a qualified biologist prior to start of construction.
5. All vehicles shall be driven at speeds within posted speed limits on existing roads and shall not exceed 15 miles per hour within project boundaries.
6. All vehicles shall be restricted to existing paved, graded, or utility access roads. Vehicles shall not be driven off existing roads in nonemergency situations unless authorized by DOE/NV. For nonemergency off-road travel, the planned route will be surveyed by a biologist immediately prior to its use.
7. DOE/NV shall implement a litter control program during construction and maintenance activities that will include the use of covered raven-proof trash receptacles; and removal of edible trash from activity sites to the trash receptacles following the close of each work day.
8. Trash in covered receptacles shall be properly disposed in a designated sanitary landfill at the end of each workweek or when nearly full. Material placed in sanitary landfills shall be covered daily when the landfill is open.
9. The environmental monitor will be responsible for ensuring that desert tortoise habitat disturbance is restricted to project construction zones.
10. The environmental monitor will be responsible for ensuring that all equipment and materials are stored within the boundaries of the construction zone or within the boundaries of previously disturbed areas.
11. An open trench or other excavation shall be inspected for entrapped animals immediately prior to backfilling and at least twice per day, immediately before work in the morning and at the end of the workday.
12. During March 1 through October 31, all trenches and other excavations with side slopes steeper than 1-foot rise to 3-foot length shall be immediately backfilled prior to being left unattended, or (a) fenced with tortoise-proof fencing; (b) covered with tortoise-proof fencing; (c) covered with plywood or similar material; or (d) constructed with escape ramps at each end of the trench and every 1,000 feet, at a minimum. All coverings and fences shall have zero ground clearance.
13. Trenches or other excavations constructed with earthen ramps will be inspected once every 2 weeks during March 1 through October 31, to ensure that the ramps are still operational and tortoises are not entrapped.